

REMARKS

This responds to the Office Action mailed on January 8, 2009.

Claims 1-2, 6-7, and 16 are amended, claims 10-15 are canceled, and no new claims are added; as a result, claims 1-7, 9, 16-25, and 27-34 are now pending in this application.

§ 112 Rejection of the Claims

Claims 1-7 and 9 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-2 and 6-7 have been amended herein to clarify the noted indefiniteness. Thus, the Applicants therefore respectfully request withdrawal of the § 112, second paragraph rejections.

§101 Rejection of the Claims

Claims 1-7, 9, and 16-34 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Office Action asserts that claims 1-7 and 9 are non-statutory because the claims allegedly claim software per se. Claims 1-2 and 6-7 have been amended herein to clearly claim elements that are not software per se. Claims 1-7 and 9 therefore, clearly claim patentable subject matter. The Office Action asserts that claims 30-34 are non-statutory because the claims allegedly claim a signal per se. The specification has been amended herein to remove the term, 'carrier wave signals' from the specification. No new matter was added thereby. As such, claims 30-34 are statutory, because these claims make no attempt to claim a signal per se.

The Office Action also asserts that claims 16-29 are non-statutory because the claims allegedly are not tied to a particular machine or apparatus nor do they transform a particular article to a different state or thing. As recently determined by the Court of Appeals for the Federal Circuit (CAFC), claims to computer implemented methods do not need to explicitly recite a physical transformation nor a concrete or tangible result¹. Rather, the subject matter patentability of claims to computer implemented methods is determined by the Bilski machine-

¹ In Re Bernard L. Bilski et al., 545 F.3d 943, 88 USPQ2d 1385 (Fed.Cir. 2008); State St. Bank and Trust Co. v. Signature Fin. Group, Inc., 149 F.3d 1368 (Fed. CIR. 1999); Ex Parte Lundgren, F.3d, 2004, WL 3561262 (Fed. Cir. 2004); Diamond v. Diehr, 450 U.S. 175 (1981), Diamond v. Chakrabarty, 447 U.S. 303 (1980).

or-transformation test. “The machine-or-transformation test is a two-branched inquiry; an applicant may show that a process claim satisfies §101 either by showing that his claim is tied to a particular machine, or by showing that his claim transforms an article. Bilski citing Benson, 409 U.S. at 70. It is enough for subject matter patentability that the claimed invention is tied to a particular machine, or the claim transforms an article. Such a tying to a particular machine and a transformation of an article is clearly present in the claims as currently presented. In particular, in the method as claimed in amended claim 16, the computer-implemented method includes receiving a request to cancel feedback pertaining to the transaction in the network-based transaction facility from a first party to the transaction, the request being received via a digital network interface, ... and generating a user interface for a computer system, the user interface presenting the feedback pertaining to the transaction and an indication that the feedback pertaining to the transaction is withdrawn. Thus, the method claimed in claim 16, and its dependent claims (17-25 and 27-29) is clearly tied to a particular machine (i.e., a digital network interface and a computer system) and transforms the machine and the user interface therein to a different state. As such, the claims as presently presented are statutory under 35 U.S.C. §101. The Applicants therefore respectfully request withdrawal of the §101 rejections.

§103 Rejection of the Claims

Claims 10-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vaidyanathan et al. (U.S2004/0128155). Claims 10-15 have been cancelled herein without prejudice. The § 103(a) rejection has therefore been rendered moot. The Applicants therefore respectfully request withdrawal of the §103 rejections.

Allowable Subject Matter

Claims 1-7, 9, 16-25, and 27-34 were indicated as allowable if amended to overcome the rejections under 35 U.S.C. § 101 and § 112, second paragraph. As explained above and amended herein, claims 1-7, 9, 16-25, and 27-34 are allowable over the rejections under 35 U.S.C. § 101 and § 112, second paragraph. Thus, the Applicants respectfully request allowance of the pending claims.

Double Patenting

Claims 1-7, 9-25, and 27-34 were indicated as provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-33 of co-pending Application No. 11/241,008. Without prejudice, the Applicants will submit a timely filed terminal disclaimer when or if the allegedly conflicting claims are patented. Therefore, the Applicants respectfully request withdrawal of the provisional double patenting rejection.

CONCLUSION

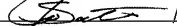
Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 406-4855 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

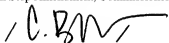
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(408) 406-4855

Date 07 April 2009

By 
James H. Salter
Reg. No. 35,668

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 7, 2009.

Chris Bartl
Name


Signature